

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MATTHEW WIGGINS,

Plaintiff,

v.

No. Civ: 11cv967 KG/RHS

**DEANNA HOISINGTON, CALVIN
ROBINSON and JERRY ROARK,**

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION, AND OVERRULING PLAINTIFF'S OBJECTIONS**

THIS MATTER is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PFRD"), filed September 3, 2013 (Doc. 44). Plaintiff filed objections to the Magistrate Judge's PFRD on September 17, 2013 (Doc. 46). Defendants filed Defendants' Response to Plaintiff's Objections to Report and Recommendations on October 1, 2012 (Doc. 47) asserting that the Court should overrule Plaintiff's objections because he fails to overcome the findings and recommendations to the Magistrate Judge since Plaintiff does not demonstrate that he met the four factors mandated by law for preliminary injunction (Doc. 47 at 1).

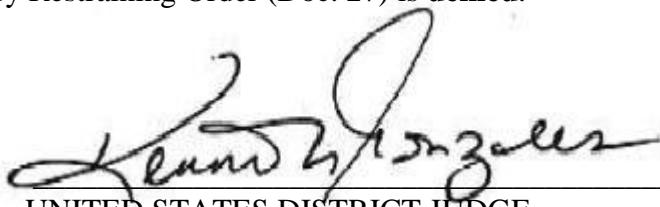
A party is entitled to file and serve written objections to the Proposed Findings and Recommendations of the designated Magistrate Judge. 28 U.S.C. § 636(b). For the Court to reconsider the findings and recommendations, Plaintiff is required to show "that the magistrate judge's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A). In his Objections, Plaintiff asserts the same issues and arguments that the Magistrate Judge has reviewed and analyzed and argues that the Magistrate Judge abused his discretion (Doc. 46).

These issues include: (1) claims that Plaintiff “continues to suffer mental and emotional, loss of sleep, comprehension” and (2) claims that he will suffer irreparable harm which Plaintiff states is “death,” all stemming from allegations that his meals are not “halal” (Doc.46). Furthermore, Plaintiff does not demonstrate how he is subject to any retaliation in light of Defendants’ assertions that none of the Defendants are stationed at the Penitentiary of New Mexico located in Santa Fe (Doc. 47) where Plaintiff is currently incarcerated. In fact, Defendant Hoisington is retired and is no longer employed by the Department of Corrections. Id. The Court does not find any part of the proposed disposition contained in the Magistrate Judge’s PFRD to be clearly erroneous or contrary to law.

Having considered *de novo* those portions of the PFRD to which Plaintiff objects, the Court concludes that Plaintiff’s objections are not well taken and should be overruled. Therefore, the Court will adopt the Magistrate Judge’s Proposed Findings and Recommended Disposition (Doc. 44), and deny Plaintiff’s Motion for Order To Show Cause For A Preliminary Injunction and a Temporary Restraining Order (Doc. 27).

IT IS HEREBY ORDERED that the Magistrate Judge’s Proposed Findings and Recommended Disposition (Doc. 44) are adopted and Plaintiff’s Objections are **overruled**.

IT IS FURTHER ORDERED that the Plaintiff’s Motion for Order To Show Cause For A Preliminary Injunction and a Temporary Restraining Order (Doc. 27) is **denied**.



UNITED STATES DISTRICT JUDGE